

## STANDARDS COMMITTEE

<b>Date of Meeting</b>	Monday 13 <sup>th</sup> January 2025
<b>Report Subject</b>	Overview of Ethical Complaints
<b>Report Author</b>	Chief Officer Governance

### EXECUTIVE SUMMARY

This report shows a summary of the ethical complaints alleging a breach of the Code that have been submitted to the Public Services Ombudsman for Wales (PSOW). As per the Committee's resolution, the complaints distinguish between different Councils and Councillors whilst still remaining anonymous.

The report gives the Committee an understanding of the number and types of complaints being made, and the outcome of consideration by the PSOW. Since the last report (2<sup>nd</sup> September 2024) 5 complaints have been received of which none have been investigated. An investigation into a complaint dating back to 2023 has been concluded as is the subject of a separate report on this agenda.

### RECOMMENDATIONS

1	That the Committee notes the number and type of complaints.
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### REPORT DETAILS

<b>1.00</b>	<b>NUMBER OF COMPLAINTS</b>
1.01	<p>The attached spreadsheet at Appendix A lists in summary form the complaints received during 2022/2023, 2023/2024 and 2024/2025. Each entry lists:</p> <ul style="list-style-type: none"> <li>the Ombudsman's reference number (year/4 digit reference)</li> <li>the type of Council (Community, County or Town)</li> <li>the complainant (Councillor, officer, public)</li> <li>the provisions which are alleged to have been breached</li> <li>the decision at each of the 3 stages of investigation</li> </ul>
1.02	<p>Since the last report:</p> <p>a) 4 new complaints 2024/04339, 202405369, 202405794, 202406270 and 202406271 were made but were not investigated</p>

	<p>b) Complaint 2023/00532 has been concluded and is the subject of a separate report;</p> <p>c) Complaints 2023/07129, 2023/07130, 2023/07895, 2023/09254 and 2024/01984 are still being investigated.</p>
1.03	<p>Of the 5 complaints received since the last report none have been investigated. 2 relate to the same community councillor and both relate to social media complaints which were felt to be offensive. This community councillor has been the subject of previous similar complaints. The social media posts skirt the boundaries of what is permissible with respect to race and religion. The PSOW has noted in one such decision (<i>italics added by me for emphasis</i>)</p> <p>“Everyone has the right to freedom of expression under Article 10 of the European Convention on Human Rights ... When acting as an elected member ... a member’s freedom of expression is afforded enhanced protection, more so than an ordinary member of the public. <i>Further, as politicians, members are likely to be afforded protection even where the language used by them may be inflammatory.</i> The right to free expression protects both popular and unpopular expression, including speech that others may not agree with, and which might shock or offend others. Political comments are not confined to the Council chamber and can include comments members may make generally about ... government policies and political matters.</p> <p>... Where a complaint relates to the conduct of a councillor who is exercising their right to freedom of expression under Article 10 of the European Convention on Human Rights, the Ombudsman must carefully consider whether an investigation and any sanction which might ultimately be imposed on the member would be a proportionate interference with those rights. <i>Case law on this issue has found that such interference is only likely to be proportionate if the language used was extremely serious and outrageous. As outlined above, the right to freedom of expression is to entitle a person to say things which everyone does not agree with, or which may offend and shock other people. I consider that, while the Member’s comments may have offended some, he had an Article 10 right to express his views. As such, any finding of a breach of the Code would amount to a disproportionate interference with the Member’s right to freedom of expression.</i>”</p>
1.04	<p>So, whilst the councillor appears to have controversial views and to be attracting a lot of complaints, it is to be noted that he has the right to say such things even if they are regarded as offensive. Such comments might be regarded as worthy of investigation if they</p> <ol style="list-style-type: none"> <li>1) Are directly insulting to a specific person or persons;</li> <li>2) They incite violence;</li> <li>3) They are otherwise regarded as being egregious, extremely serious or outrageous</li> </ol>
1.05	<p>5 complaints are still under investigation (though 2 relate to the same incident and simply reflect that the councillor is dual hatted). With the conclusion of 1 further investigation, it is good to see that the number of outstanding cases has fallen from 7 since September.</p>

1.06	This report is correct as at the date of preparation (December 2024). If we are notified of the outcome of any complaints after this date, they will be included in the next quarterly report.
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<b>2.00</b>	<b>RESOURCE IMPLICATIONS</b>
2.01	None associated with the complaints recorded in this report.

<b>3.00</b>	<b>CONSULTATIONS REQUIRED / CARRIED OUT</b>
3.01	None.

<b>4.00</b>	<b>RISK MANAGEMENT</b>
4.01	None

<b>5.00</b>	<b>APPENDICES</b>
5.01	Appendix A - Number of complaints.

<b>6.00</b>	<b>LIST OF ACCESSIBLE BACKGROUND DOCUMENTS</b>
6.01	None  <b>Contact Officer:</b> Gareth Owens, Chief Officer Governance <b>Telephone:</b> 01352 702344 <b>E-mail:</b> <a href="mailto:gareth.legal@flintshire.gov.uk">gareth.legal@flintshire.gov.uk</a>

<b>7.00</b>	<b>GLOSSARY OF TERMS</b>
7.01	<b>Public Services Ombudsman for Wales</b> – the Ombudsman investigates service complaints and alleged breaches of the code. The Ombudsman will only investigate an alleged breach of the Code if there is clear evidence of a breach and it is in the public interest to do so.